

**U.S. DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION**

HUMAN RESOURCE MANAGEMENT POLICY MANUAL

HRM LETTER NO. 000-1

DATE: June 27, 2002

SUBJECT: Reimbursement for Professional Liability Insurance

1. Purpose

The Treasury, Postal Service and General Government Appropriations Act, 1997, as amended by the Fiscal Year 2000 Treasury Appropriations Act, requires agencies to reimburse a "qualified employee" (an agency employee in the position of law enforcement officer, supervisor, or management official) for up to one-half of the annual premium costs incurred by such employee for professional liability insurance. This Letter provides the Transportation Security Administration's policy on reimbursement for insurance.

2. Background

Generally, when an employee is sued while acting in the scope of his or her employment, the United States will be substituted as the proper defendant, and the Department of Justice (DOJ), in defending the case, will assign an attorney at no cost to the employee. However, in certain limited circumstances, DOJ may determine that defending the employee is not in the best interest of the Government and, therefore, may refuse to defend the employee. Also in rare cases, an employee can be found personally liable for constitutional torts while acting within the scope of his or her duties or for on the job misconduct. Because of such penalties, an employee may choose to purchase private professional liability insurance. This insurance includes coverage for administrative, judicial proceedings and investigations. It should be noted that in the event DOJ does agree to defend an employee, a professional liability insurance policy may contain a provision allowing the insured to request that the insurer provide him or her with an attorney, selected by the insurer, to monitor and oversee the defense being provided by the United States. The decision to buy professional liability insurance is a personal choice for each employee, and TSA neither encourages nor discourages purchasing such insurance.

3. Qualified Employees

- a. The term "law enforcement officer" (LEO) means an employee, the duties of whose position are primarily the investigation, apprehension, prosecution, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States, including a law enforcement officer under section 8331(20) or 8401(17) of Title 5, United States Code.
- b. Within TSA, Criminal Investigators, Federal Air Marshals, and TSA Enforcement Officers are considered LEOs. Determinations on employee eligibility for liability insurance reimbursement must be consistent with determinations for law enforcement retirement coverage.
- c. The term "supervisor" means an individual employed by TSA having the authority in the interest of TSA to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with

respect to any unit which includes nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority. Determinations on employee eligibility for liability insurance reimbursement as a supervisor must be consistent with determinations on supervisory status for labor relations purposes.

- d. The term "management official" means an individual employed by TSA in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of TSA and its customers. Determinations on employee eligibility for liability insurance reimbursement as a management official must be consistent with determinations on management official status for labor relations purposes.

4. Insurance Policy Definition

The term "professional liability insurance" means insurance providing coverage for:

- a. Legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of that individual's official duties as a qualified employee; and
- b. The cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding.

5. Amount of Reimbursement

Reimbursement shall be limited to the lesser of:

- a. 50 percent of the annual premium; or
- b. \$150.00 per year.

6. Requirements for Reimbursement

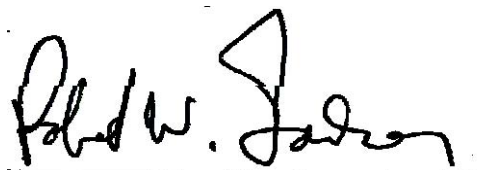
- a. The employee must be currently employed in a position at TSA that meets the definition of LEO, supervisor or management official.
- b. Reimbursement may be made only for professional liability insurance as defined herein.
- c. Reimbursement is authorized only for fully paid annual premiums. Employees who opt to pay premiums on a quarterly, semi-annual, or other basis must wait until the annual premium is fully paid before submitting a request for reimbursement.
- d. Reimbursement is authorized only for new policies effective on or after October 1, 1999, or for renewal of annual policies in effect on or after that date.

7. Reimbursement Request Procedures

- a. The appropriate Assistant Administrator, or designee, is the approving official for reimbursing employee expenses.
- b. To claim reimbursement, an employee must submit to the approving official:
 - A properly completed SF-1164 (Claim for Reimbursement for Expenditures on Official Business);
 - A copy of the insurance policy or other documentation evidencing the purchase of professional liability insurance; and
 - Proof of full payment of the annual premium for which reimbursement is being sought.
- c. The approving official shall review the documentation to ensure all requirements for reimbursement have been met and shall forward approved requests to the FAA Aeronautical Center, AMZ-120, PO Box 25082, Oklahoma City, OK, 73125-0082.
- d. Questions concerning a specific request for reimbursement, including questions concerning whether an employee meets the definition of LEO, supervisor or management official, or if the insurance meets the definition of professional liability insurance, should be directed to the TSA Headquarters Human Resource Management Office, 202-385-1445.

8. Insurance Policy Cancellation and Refunds

At any time the cancellation of a liability insurance policy, whether by the policyholder of the insurance carrier, results in a refund from the insurance carrier of all or any part of the annual premium, the employee must notify his or her servicing human resource management office within 30 days of the refund receipt. The employee must also provide information requested by the human resource management office to assist them in determining the amount of the refund representing the prorated reimbursement of the premium that the employee received from TSA. The employee must repay the pro rata amount to TSA.



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